

Message Text

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TO SECSTATE WASHDC IMMEDIATE 3381
INFO AMCONSUL MONTREAL
ALL OTHER AMCONSULS CANADA (POUCH)
BT
C O N F I D E N T I A L SECTION 01 OF 04 OTTAWA 03568

PASS WHITE HOUSE/SCHLESINGER, FEA, FPC

E.O. 11652: GDS
TAGS: ENRG, PBOR, PDEV, PINT, SENV, SGEN, CA
SUBJECT: ENERGY: PUBLICATION OF BERGER INQUIRY REPORT
TO OPEN NATIONAL DEBATE ON NORTHERN GAS PIPELINE

: OTTAWA 2200

1. SUMMARY: PUBLICATION OF BERGER INQUIRY REPORT MAY 9
WILL OPEN A NATIONAL DEBATE THAT PROMISES TO BE ONE OF
THE MOST SIGNIFICANT IN CANADA'S RECENT HISTORY. AFTER
YEARS OF DELIBERATION AND STUDY OF THE ISSUE GOC APPEARS
DETERMINED TO TRY TO PRESS ON TO DECISION, WHICH WILL
PROBABLY APPROVE COOPERATION WITH THE U.S. ON AN OVER-
LAND ROUTE, BEFORE SEPTEMBER 1 DESPITE OPPOSITION DEMANDS
FOR A FULL-SCALE PARLIAMENTARY DEBATE WHICH WOULD PROBABLY
DELAY DECISION BEYOND THAT DATE. ESSENTIALLY NEUTRAL
STANCE TAKEN BY FPC MAY 2 REGARDING THE TWO OVERLAND
ROUTES FOR THE PIPELINE WAS WARMLY WELCOMED BY RANKING
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GOC OFFICIALS BECAUSE IT ADVANCED JOINT DECISION PROCESS
WITHOUT APPLYING UNDUE PRESSURE ON CANADA. LOCAL
RESIDENTS AND OFFICIALS IN THE YUKON AND NORTHWEST
TERRITORIES (NWT) BELIEVE GOC, BY FAILING TO SET OUT
REASONABLE TERMS FOR A CLAIMS SETTLEMENT AT THE OUTSET
OF DISCUSSIONS WITH NATIVE ORGANIZATIONS, HAS LOST CONTROL
OF THE SITUATION AND ALLOWED NATIVE DEMANDS TO ESCALATE
TO THE POINT WHERE THEY WILL BLOCK CONSTRUCTION OF A
PIPELINE AND CHALLENGE GOC SOVEREIGNTY IN THE NORTH. IN
OTTAWA, HOWEVER, DEPARTMENT OF INDIAN AND NORTHERN

AFFAIRS (DINA) OFFICIALS ARE CONFIDENT THAT THEY CAN CONTAIN PRESSURES FROM NATIVE ASSOCIATIONS AND THEIR SOUTHERN ALLIES, REACH A BASIC UNDERSTANDING IN PRINCIPLE WITH NATIVE GROUPS ON FUTURE OF NORTH, AND STILL KEEP GOVERNMENT'S POLITICAL OPTIONS SUFFICIENTLY OPEN TO ALLOW SELECTION OF PIPELINE ROUTE BEFORE SEPTEMBER 1. GOC ACCOMPLISHMENT OF THIS BALANCING ACT WILL BE IN LARGE MEASURE INFLUENCED BY INTERPLAY BETWEEN PUBLIC SUPPORT FOR BERGER'S RECOMMENDATIONS AND ECONOMIC FACTORS TO BE HIGHLIGHTED IN RECOMMENDATIONS BY NATIONAL ENERGY BOARD (NEB). THE MOST DIFFICULT SITUATION FOR GOVERNMENT WILL BE A STRONG NEB RECOMMENDATION IN FAVOR OF ARCTIC GAS PROJECT. THIS WOULD CONFRONT GOC WITH AGONIZING CHOICE BETWEEN NATIVE RIGHTS IN POLITICALLY VOLATILE MACKENZIE VALLEY AND POSSIBLY OVERRIDING NATIONAL ENERGY NEEDS. TRUDEAU IS CONCERNED ABOUT THE ISSUE GETTING OUT OF HAND, PARTICULARLY IF IT GETS TO PARLIAMENT WITHOUT FULL PRIOR PREPARATION AND PLANS TO USE THE NEWLY NAMED PIPELINE COORDINATOR ROBINSON TO COOK THE ISSUE IN ADVANCE. FACT THAT GOC'S ABILITY TO MANAGE NATIVE CLAIMS ISSUE SEEMS AT THIS POINT STRONGER IN DEALING WITH YUKON INDIANS THAN WITH NATIVES IN MACKENZIE VALLEY WOULD SEEM TO BE ELEMENT WEIGHING IN FAVOR OF GOC APPROVAL OF ALCAN ROUTE AS POLITICAL COMPROMISE. END SUMMARY.

2. PUBLICATION OF BERGER MACKENZIE VALLEY PIPELINE
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INQUIRY REPORT ON MAY 9 WILL OPEN POLITICAL CONTEST BETWEEN PROPONENTS AND OPPONENTS OF PIPELINE THAT PROMISES TO BE ONE OF MOST SIGNIFICANT POLITICAL DEBATES IN RECENT CANADIAN HISTORY. OVER LAST MONTH AMBASSADOR, DCM, CONSUL GENERAL CALGARY AND EMBASSY OFFICERS HAVE DISCUSSED INTERPLAY OF NATIVE CLAIMS AND PIPELINE DECISION WITH GOC MINISTERS, OTHER FEDERAL OFFICIALS, GOVERNMENT OF NORTHWEST TERRITORIES (GNWT) OFFICIALS, NWT LEGISLATORS, NATIVE ASSOCIATION OFFICIALS AND RESIDENTS OF MACKENZIE VALLEY. THIS REPORT DRAWS TOGETHER IMPRESSIONS GAINED DURING THESE CONVERSATIONS; IT ASSESSES THE CURRENT STATE OF NATIVE CLAIMS SITUATION, OUTLINES GOC ATTITUDES AND STRATEGIES FOR DEALING WITH THE INTERRELATED PIPELINE AND NATIVE CLAIMS ISSUES AND WEIGHS FACTORS THAT WILL INFLUENCE ULTIMATE GOC DECISION ON THE PIPELINE.

3. THE SITUATION IN OTTAWA:

A. PRIME MINISTER TRUDEAU SAID IN HOUSE OF COMMONS ON MAY 3 THAT IF CANADA DOES NOT MAKE AN EARLY DECISION ON A NORTHERN PIPELINE ROUTE, THERE IS RISK DECISION WILL BE MADE IN U.S. HE SAID THAT ALTHOUGH HE IS UNDER NO OBLIGATION TO MEET SEPTEMBER 1 DEADLINE, CANADA WOULD DO ITS BEST TO DO SO. HE ADDED THAT "IF WE CANNOT MAKE OUR

DECISION, THE AMERICANS WILL DO IT FOR US" THIS WOULD NOT BE IN CANADIAN INTEREST. THIS FORCEFUL STATEMENT, WHICH EVEN SURPRISED SOME SENIOR CIVIL SERVANTS, REFLECTS VERY STRONG INTENTION OF CABINET TO MOVE DECISIVELY TO END PROTRACTED DISCUSSION OF THE PIPELINE QUESTION AND REACH DECISION. CABINET MINISTERS ARE REPORTEDELY SO TIRED OF SEEMINGLY ENDLESS GOVERNMENT DELIBERATION ON THIS ISSUE THAT, ACCORDING TO RANKING DINA OFFICIAL, THEY

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THREATENED TO TURN DOWN PROPOSAL FOR BOARD OF INQUIRY TO EXAMINE SOCIO-ECONOMIC IMPACT OF ALCAN PIPELINE. SENIOR GOVERNMENT OFFICIALS ALSO INDICATE THAT THERE SEEMS TO BE VIRTUALLY NO DISPOSITION AMONG CABINET MEMBERS TO RULE AGAINST PIPELINE THROUGH CANADA.

B. ASIDE FROM OBVIOUS PROBLEM OF POSSIBLY VERY TOUGH POLITICAL CHOICE IT WILL FACE IN MAKING DECISION, GOC'S CHIEF WORRY IS VERY TIGHT DECISION TIMETABLE. LAST FORMAL DECISION ELEMENT IN GOC DECISION PROCESS IS REPORT BY ALCAN INQUIRY WHICH IS DUE AUGUST 1. GOC WILL HAVE TO SCRAMBLE TO PULL TOGETHER AND WEIGH DECISION ELEMENTS (BERGER INQUIRY REPORT, NEB REPORT, AND ALCAN INQUIRY REPORT) BY MID-AUGUST SO AS TO GIVE PRESIDENT CARTER SUFFICIENT TIME TO REVIEW GOC POSITION BEFORE MAKING HIS DECISION SEPTEMBER 1.

C. OPPOSITION LEADERS, REALIZING THAT UNDER PRESENT

TIMETABLE PIPELINE DECISION WILL BE MADE WHEN PARLIAMENT IS NOT IN SESSION, HAVE ACCUSED THE GOVERNMENT OF CAVING
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IN TO U.S. PRESSURE IN RUSHING TOWARDS SEPTEMBER 1 TARGET DATE AND ARE DEMANDING PARLIAMENTARY DEBATE PRIOR TO DECISION. TRUDEAU HAS REFUSED TO GRANT THIS REQUEST.

D. MAY 2 FPC DECISION -- WHICH EFFECTIVELY PRESENTED NEUTRAL STANCE ON TWO CROSS-CANADA ROUTES -- IS VIEWED IN OTTAWA AS VERY POSITIVE DEVELOPMENT. CABINET MINISTERS, OFFICIALS IN THE PRIME MINISTER'S OFFICE AND SENIOR CIVIL SERVANTS WERE UNANIMOUSLY PLEASED WITH DECISION. THEY BELIEVE IT ADVANCES DECISION PROCESS BUT AVOIDS IMPRESSION OF LEANING TOO HEAVILY ON CANADA.

4. STATUS OF NATIVE CLAIMS NEGOTIATIONS:

A. DINA MINISTER, WARREN ALLMAND, IS SEEKING TO OBTAIN AGREEMENT IN PRINCIPLE ON ESSENTIALS OF LAND CLAIMS SETTLEMENT WITH NATIVE PEOPLES OF NWT BY SEPTEMBER 1, 1977. WESTERN ARCTIC INUIT AND NWT METIS HAVE PREPARED OR ARE NOW COMPLETING DETAILED CLAIM SETTLEMENT PROPOSALS FOR SUBMISSION TO GOC. INDIAN BROTHERHOOD SEEMINGLY BELIEVES THAT IT HAS LITTLE TO GAIN FROM DIRECT NEGOTIATIONS WITH GOVERNMENT; INDIAN LEADERS ARE REPORTEDLY CONVINCED THAT THEIR ABILITY TO DEVELOP THEIR OWN POLITICAL INSTITUTIONS AND CREATE SELF-DETERMINING DENE NATION IS DEPENDENT UPON POLITICAL ACTION IN TORONTO AND OTTAWA AND PRESSURE FROM SOUTHERN CANADIAN SYMPATHIZERS, LARGELY CHURCH GROUPS, CBC AND OTHER MEDIA EMPLOYEES, AND NATIONALISTS SEEKING TO BLOCK A DELTA PIPELINE. DENE ARE CATEGORICALLY REJECTING ANY FORM OF TRADITIONAL CLAIMS SETTLEMENT AND ARE CONVINCED THAT A FAVORABLE MACKENZIE DELTA PIPELINE DECISION WILL CAUSE THEM TO LOSE THEIR ONE CHANCE FOR CREATING SEPARATE AND AUTONOMOUS NORTHERN INDIAN NATION. SENIOR NWT AND DINA OFFICIALS AND OTHER KNOWLEDGEABLE (NON-NATIVE) OBSERVERS OF NWT SCENE ARE CONVINCED THAT ALLMAND HAS SERIOUSLY UNDERESTIMATED DIFFICULTY OF ACHIEVING ACCOMMODATION WITH NWT NATIVE GROUPS AND ARE
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SHARPLY CRITICAL OF THE GOC'S FAILURE TO LAY DOWN REALISTIC TERMS OF REFERENCE FOR CLAIMS SETTLEMENT NEGOTIATION.

B. DINA NEGOTIATIONS WITH COUNCIL OF YUKON INDIANS (CYI) SHOW MUCH GREATER PROMISE OF SUCCESS IN TIME TO ENABLE CONSTRUCTION OF PIPELINE. CYI HAS TOLD DINA THAT IT WILL NEVER AGREE TO PIPELINE ACROSS THE NORTHERN YUKON (ARCTIC GAS PROJECT) BUT THAT IT PERHAPS WILL AGREE TO SOUTHERN

ROUTE (ALCAN LINE) PROVIDED CERTAIN CONDITIONS ARE MET
"BEFORE CONSTRUCTION BEGINS." DINA NEGOTIATORS AND CYI
REPRESENTATIVES HAVE REACHED POINT WHERE THEY ARE TALKING
IN TERMS OF SPECIFIC DETAIL (RIGHTS TO SURFACE RESOURCES
AND SCHOOLS) AND DINA BELIEVES AN "AGREEMENT IN
PRINCIPLE" WILL BE REACHED BY FALL.

5. GOC CLAIMS STRATEGY: THE CRITICAL ELEMENT IN CLAIMS
SETTLEMENT NEGOTIATIONS IS ISSUE OF SOVEREIGNTY,
ESPECIALLY IN NWT WHERE ALLMAND HAS TOLD LEGISLATIVE
ASSEMBLY THAT IT WILL RETAIN ULTIMATE POLITICAL CONTROL,
BUT APPEARS NOT TO HAVE MADE THIS POINT CLEAR TO NWT
NATIVE LEADERS. SOME OF THE NATIVE GROUPS CONTINUE TO
NOURISH EXPECTATION THAT CLAIMS SETTLEMENT WILL PERMIT
THEM TO DICTATE POLITICAL AND ECONOMIC TERMS AND
CONDITIONS OF FUTURE NORTHERN CANADIAN SOCIETY. (HIGHLY
PLACED NWT BUREAUCRATS INDICATE THAT THERE WILL BE NO
SERIOUS PROGRESS TOWARD CLAIMS SETTLEMENT UNTIL THE GOC
HAS DEFINED THE CONCESSIONS THAT IT CAN POLITICALLY
TOLERATE.) CONVERSATIONS WITH SENIOR DINA OFFICIALS IN
OTTAWA INDICATE THAT THE FEDERAL GOVERNMENT IS NOW ABOUT
TO MAKE DEFINITIVE MOVES TO ASSERT CONTROL AND THAT,
MOREOVER, THEY ARE QUITE CONFIDENT GOC CAN DO SO.
INSTRUMENT FOR THIS MOVE WILL BE A DINA POLICY STATEMENT

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ON NORTHERN DEVELOPMENT WHICH WILL BE COMPLETED IN JULY.
STATEMENT WILL IN EFFECT BE A RESPONSE TO BOTH THE BERGER
INQUIRY REPORT AND DENE NATION CLAIM OF THE INDIAN
BROTHERHOOD AND WILL SET FORTH THE GOVERNMENT'S POSITION
ON LIMITS, TERMS AND CONDITIONS FOR ULTIMATE SETTLEMENT
OF NATIVE CLAIMS IN THE NORTH. THESE ARE, BRIEFLY:

A. YUKON AND NWT WILL NOT REPEAT NOT BE GRANTED

PROVINCIAL STATUS ON TERMS PROPOSED BY NATIVE CLAIMANTS;

B. NATIVE PEOPLES WILL NOT REPEAT NOT BE GRANTED RIGHTS
TO SUB-SURFACE, NON-RENEWABLE RESOURCES;

C. NATIVE PEOPLES WILL BE ASSURED, BY LAW, OF INCREASED
PARTICIPATION IN LOCAL AND TERRITORIAL GOVERNMENT AND
THEIR CONTINUED POLITICAL POWER WILL BE GUARANTEED BY
LEGISLATION RESTRICTING VOTING RIGHTS OF SHORT-TERM
RESIDENTS; AND

D. ECONOMIC FUTURE AND LIFE STYLE OF NATIVE PEOPLES
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WILL BE ASSURED THROUGH GIVING THEM CONTROL OF RENEWABLE
RESOURCES -- GAME, FISH AND FORESTS.

6. GOC POLICY IS BASED ON ASSUMPTION THAT COMPROMISE
CAN BE REACHED WHEREIN NATIVES GIVE UP ABORIGINAL CLAIMS
AND DEMANDS FOR AUTONOMY -- WHICH, IN GOC VIEW, ARE
INTENDED REALLY TO PROTECT TRADITIONAL LIFE STYLE -- IN
EXCHANGE FOR ECONOMIC GUARANTEES AND LIMITED POLITICAL
GUARANTEES WHICH WILL ACHIEVE SAME PURPOSE. GOC VIEWS
CLAIMS QUESTION AS PROCESS OF POLITICAL DIALOGUE WITH
NATIVE PEOPLES WHICH IS NOT AMENABLE TO A QUICK FIX AND
CANNOT BE RESOLVED DEFINITELY BEFORE PIPELINE DECISION.
IT IS DETERMINED NOT TO ALLOW THE CLAIMS ISSUE TO
COMPLETELY DOMINATE THE PIPELINE DECISION. IN FACT,
DINA OFFICIALS SAY THEY PLAN TO HAVE PIPELINE DECISION
GOVERN COURSE OF CLAIMS SETTLEMENT RATHER THAN REVERSE.
AFTER ROUTE IS SELECTED, CLAIMS DISCUSSION IN THE AREA
OF THE PIPELINE RIGHT OF WAY WILL INTENSIFY, CONCENTRATING
ON DETAILS OF SETTLEMENT THERE. (THIS WILL ALSO PRODUCE
AN IMPORTANT POLITICAL SIDE-EFFECT -- NATIVE GROUPS
OUTSIDE AREA SELECTED FOR PIPELINE ROUTE WILL LOSE
LEVERAGE PIPELINE GIVES THEM ON CLAIMS ISSUE.) DIS-
CUSSIONS IN YUKON WITH CYI ARE ALREADY APPROACHING THIS
STATE; DINA IS CONFIDENT THAT AGREEMENT IS POSSIBLE THERE
ON TERMS GRANTING INDIANS CONTROL OF SURFACE RESOURCES
RIGHTS AND PARTIAL CASH SETTLEMENT OR "DOWN PAYMENT"
THAT WILL ENABLE CYI TO ORGANIZE FIRMS TO PARTICIPATE
IN PIPELINE CONSTRUCTION.

7. GOC'S ABILITY TO IMPOSE ITS TERMS FOR NORTHERN
DEVELOPMENT AND THEREBY KEEP CLAIMS QUESTION FROM
SERIOUSLY IMPINGING ON THE PIPELINE DECISION WILL DEPEND
SIGNIFICANTLY ON DEGREE TO WHICH BERGER INQUIRY REPORT
INFLUENCES CANADIAN PUBLIC OPINION. GOC OFFICIALS
BELIEVE THAT BERGER'S REPORT -- WHICH WILL PRESUMABLY
URGE LONG DELAY OF MACKENZIE PIPELINE -- CAN BE DIS-
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REGARDED ONLY AT GREAT COST TO GOVERNMENT. BERGER, A VERY SOLID, NO-NONSENSE JUDGE WHO HAS DEVOTED MUCH OF HIS PUBLIC LIFE TO CAUSE OF NATIVE RIGHTS, IS RESPECTED BY MANY CANADIANS AND HIS VIEWS WILL COUNT. MOREOVER, THEY WILL BE REINFORCED BY POWERFUL MEDIA BLITZ. CBC WILL RUN ONE AND A HALF HOUR PRIME-TIME TV SPECIALS COVERING BERGER INQUIRY MAY 8 AND 9 AS WELL AS TWO-HOUR RADIO BROADCAST AFTERNOON OF MAY 9. BERGER AND HIS STAFF WILL HOLD NEWS CONFERENCES MAY 9 IN SEVERAL CANADIAN CITIES AS WELL AS NEW YORK AND WASHINGTON. ACCORDING TO A SENIOR DINA OFFICIAL, COMBINED MEDIA IMPACT OF THE BERGER REPORT AND CAMPAIGN PLANNED BY THE INDIAN BROTHERHOOD "WILL MAKE ONE HELL OF A BIG SPLASH."

8. IF BERGER REPORT IS AS EXPECTED AND IF NEB MAKES STRONG RECOMMENDATION FOR ARCTIC GAS BASED ON OVERRIDING NATIONAL ECONOMIC INTEREST IN DEVELOPING FRONTIER GAS RESERVES, GOC WILL FACE AGONIZING CHOICE BETWEEN ECONOMIC IMPERATIVES AND NATIVE RIGHTS. THIS WILL BE MOST POLITICALLY DIFFICULT SITUATION FOR GOC. ON OTHER HAND, IF NEB RECOMMENDATION IS NEUTRAL AS REGARDS ALCAN AND ARCTIC GAS OR STRONGLY AGAINST ARCTIC GAS, ODDS WOULD APPEAR TO FAVOR ALCAN PROJECT WHICH WOULD BE LESS DIFFICULT POLITICAL DECISION.

9. TRUDEAU FEARS THAT AN ILL-PREPARED DEBATE IN PARLIAMENT COULD CAUSE THE GOVERNMENT'S FALL. THERE ARE PRO AND ANTI PIPELINE ELEMENTS IN EACH PARTY EXCEPT THE NDP, WHICH IS SOLIDLY AGAINST, AND THE OUTCOME OF A DEBATE COULD BE UNPREDICTABLE.

10. PURPOSE OF APPOINTMENT OF PIPELINE COORDINATOR

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ROBINSON IS TO COOK THE OUTCOME BEFOREHAND, OBTAINING ENOUGH CONVERGENCE SO THAT THE GOVERNMENT CAN FACE THE PARLIAMENT WITHOUT JEOPARDY.

11. IN SUM, GOC SEEMS TO THINK IT IS IN SITUATION WHERE TO A DEGREE IT CAN CONTAIN NATIVE CLAIMS ISSUE. HOWEVER, IT IS PLAYING WITH STRONGER HAND IN YUKON THAN IN MACKENZIE VALLEY. THE COMBINED FORCES ARRAYED AGAINST THE GOC THERE; THE NATIVE ASSOCIATIONS AND THEIR SOUTHERN ALLIES -- CHURCH GROUPS, ENVIRONMENTALISTS AND ECONOMIC NATIONALISTS; CAN AND WILL MOUNT A FORMIDABLE POLITICAL CAMPAIGN AGAINST GOC CHOICE OF MACKENZIE ROUTE. POLITICAL COSTS OF APPROVING THE ARCTIC GAS PROJECT COULD BE VERY HIGH -- EVEN IF NEB RECOMMENDATIONS MAKE A STRONG ECONOMIC ARGUMENT FOR IT. ENDERS

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